

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 15: Eligibility</b>	<b>Effective Date:</b> November 1, 2014
	<b>Section 2: Removals</b>	<b>Version:</b> 1

## **POLICY [NEW]**

One of the requirements for Title IV-E Foster Care eligibility is that the child be removed pursuant to a court order authorizing the physical or constructive removal of the child from a parent or specified relative. The circumstances of the removal home, which is the home of the person from whom the child is considered legally removed, are reviewed to determine eligibility. The person who is the subject of the Contrary to the Welfare / Best Interest (CTW/BI) judicial determination is the individual from whom the child is legally removed.

### Physical Removal and Constructive Removal

There are two (2) types of removals: physical removal and constructive removal.

Physical removal occurs when DCS physically removes a child from the person identified in the court order authorizing removal. Constructive removal is a “paper removal.” A constructive removal occurs when the child is currently living with a caretaker (who is not the subject of the CTW/BI) and DCS removes the child and places him/her with that caretaker (allows the child to remain in the current residence as a placement). See Practice Guidance for additional information on constructive removals.

The date of removal is the date of the child’s placement in out-of-home care. Initial eligibility is determined based on the month of the child’s first placement.

In order to meet Title IV-E eligibility requirements:

1. The removal must be from a specified relative. See separate policy [15.4 Specified Relative](#), for more information about the definition of a specified relative.
2. The child must have lived with the specified relative at the time of or within six (6) months prior to removal.
3. The court order authorizing the child’s removal must coincide with (occur at the same time as or shortly thereafter) the child’s removal from home. If the court authorizes removal but the child remains in the home of the specified relative, then this is not considered a removal (for eligibility purposes).

**Note:** If the child is being removed from an In-Home Child In Need of Service (CHINS), a court order authorizing removal must be obtained that coincides with the child’s removal from home, or the child will not be Title IV-E eligible for that out-of-home care episode.

### Children of DCS Wards

A Title IV-E eligibility determination is not needed for the child of a parent who is a ward, unless the child has been legally removed. If the child of a ward is placed in out-of-home care and has been legally removed, a Title IV-E eligibility determination must be completed for the child.

### Code References

1. 42 USC 672(a)(2)
2. 45 CFR 1356.21(k)

## **PROCEDURE**

The Family Case Manager (FCM) will:

1. Ensure that there is a court order authorizing removal of a child that coincides with (occurs at the same time as or shortly thereafter) the child's removal from the home;
2. Notify DCS Local Office Attorney immediately of a change in placement from in-home care (In-Home CHINS) to out-of-home care in order to obtain a new court order sanctioning the removal;
3. Ensure the [Intake Officer's Report of Preliminary Inquiry and Assessment](#) clearly identifies the home from which the child was removed;
4. Upload the signed court order(s) authorizing removal and the Intake Officer's Report of Preliminary Inquiry into the Management Gateway for Indiana's Kids (MaGIK) within 30 days of removal; and
5. Contact the Central Eligibility Unit (CEU) immediately for additional instructions if information is discovered regarding the child's removal that would impact the initial eligibility determination during the out-of-home care episode.

The DCS CEU will:

1. Review the eligibility information in MaGIK; and
2. Make a determination of whether the removal requirement is met.

## **PRACTICE GUIDANCE**

The child must be placed in out-of-home care for at least one (1) night for the placement to be considered a removal. A trial home visit (THV) cannot be the child's first placement.

Acceptable supporting documentation of a removal includes, but is not limited to copies of the following:

1. Signed court order authorizing removal;
2. Petition for removal; and/or
3. [Intake Officer's Report of Preliminary Inquiry and Assessment](#).

### **Constructive Removals Scenarios**

**Scenario #1:** A grandmother contacts the DCS because she has been caring for her grandchild and mom has not returned for her child. The grandmother wants to keep her grandchild but she needs assistance. DCS becomes involved and decides to remove the child from mom for not providing care and supervision of her child and leaves the child in the grandmother's home as a placement. This is a constructive removal because the child was removed from the mother while living with the grandmother. The child remained with the grandmother after removal.

**Scenario #2:** At the time of the child's birth, mom and baby both have positive drug screens. The Department is contacted and begins their assessment. It is determined that the baby is unsafe in mom's care and the Department is verbally authorized by a judge to 'remove' the child, however; the child remains in the hospital for days/weeks due to withdraw. As of the time of the court's authorization for custody, the mother no longer has unsupervised contact with the

baby. This is a constructive removal because the child was not physically removed from the hospital or the home of the parent at the time removal was authorized.

<b>FORMS AND TOOLS</b>
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1. [SF 55435 Title IV-E and Title IV-A/EA Information](#)
2. [Intake Officer's Report of Preliminary Inquiry and Assessment](#)

<b>RELATED INFORMATION</b>
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N/A